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BEIJING 100101, CHINA

ISSUING DATE:

2005, 12, 30

Application NO.:

03813160.9

Applicant:

MATSUSHITA ELECTRIC INDUSTRIAL

Title:

COLLAPSIBLE MOBILE TELEPHONE

Agent:

Wan kui Di

THE FIRST OFFICE ACTION

(PCT application for entry into the national phase)

1. ☒ The applicant filed a request for substantive examination on Year ___ Month ___ Day ___. According to Article 35 paragraph 1 of the Patent Law, the examiner has conducted a substantive examination to the above-mentioned patent application.

☐ According to Article 35 paragraph 2 of the Patent Law, Chinese Patent Office decided, on its own initiative, to conduct a substantive examination to the above-mentioned patent application.

2. ☒ The applicant requested to take

Year 02 Month 6 Day 7, on which an application is filed with the JP patent office, as the priority date,

Year ___ Month ___ Day ___, on which an application is filed with the ___ patent office, as the priority date,

Year ___ Month ___ Day ___, on which an application is filed with the ___ patent office, as the priority date.

3. ☐ The amended document(s) submitted by the applicant is/are not accepted because the said amendment(s) is/are not in conformity with the provision of Article 33 of the Chinese Patent Law.

☐ The Chinese translation of the annexes of the International Preliminary Examination Report.

☐ The Chinese translation of the amendments submitted under Article 19 of PCT.

☐ The amendment(s) submitted under Article 28 or Article 41 of PCT.

☐ The amendment(s) submitted under Rule 51 of The Implementing Regulations of the Patent Law

The concrete reason(s) for not accepting the amendment(S) is/are presented on the text of this Office Action.

4. ☒ The examination has been conducted on the initially filed Chinese translation of the text of the application.

☐ The examination has been conducted on the following text(s) :

☐ Specification, page(s) _____, as originally filed

page(s) _____, as the annexes of the International Preliminary Examination Report

page(s) _____, as the amendment(s) submitted under Article 28 or 41 of PCT

page(s) _____, as the amendment(s) submitted under Rule 51 of The Implementing

Regulations of the Patent Law

☐ Claim, _____, as originally filed

_____, as the Chinese translation of the amendment(s) submitted under Article 19 of PCT

_____, as the annexes of the International Preliminary Examination Report

_____, as the amendment(s) under Article 28 or 41 of PCT

_____, as the amendment(s) under Rule 51 of The Implementing Regulations of the Patent

Law

☐ Figure, _____, as originally filed

_____, as the annexes of the International Preliminary Examination Report

_____, as the amendment(s) under Article 28 or 41 of PCT

_____, as the amendments under Rule 51 of The Implementing Regulations of the Patent Law

5. ☒ The following reference document(s) is/are cited by this notification: (the reference numeral(s) thereof will be used in the examination procedure hereafter)

NO.	Reference No. and Title	Publishing Date (or the filing date of rivals)
1	CN1243375A	Year 00 month 2 day 2
2	CN1347235A	Year 02 month 5 day 1
3		Year month day
4		Year month day

6. Concluding comments

☐ on the specification:

☐ The specification is not in conformity with the provision of Rule 18 of the Implementing Regulations of the Patent Law.

☐ The figures is not in conformity with the provision of Rule 19 paragraph 3 of the Implementing Regulations of the Patent Law.

☐ The specification is not in conformity with the provision of Article 26 paragraph 3 of the Patent Law.

☐ The contents of the application are in contrary to Article 5 of the Patent Law and therefore are not patentable

☒ on the claims:

☐ Claim(s) _____ belong(s) to non-patentable subject matter as prescribed in Article 25 of the Patent Law

☐ Claim(s) _____ do(es) not possess novelty as requested by Article 22 paragraph 2 of the Patent Law.

☒ Claim(s) 1-9 do(es) not possess inventiveness as requested by Article 22 paragraph 3 of the Patent Law.

☐ Claim(s) _____ do(es) not possess the practical applicability as requested by Article 22 paragraph 4 of the Patent Law.

☐ Claim(s) _____ do(es) not comply with the provision of Article 26 paragraph 4 of the Patent Law.

☐ Claim(s) _____ do(es) not comply with the provision of Article 31 paragraph 1 of the Patent Law.

☐ Claim(s) _____ do(es) not comply with provision of Rule 20 of the Implementing Regulations.

☐ Claim(s) _____ do(es) not comply with provision of Rule 21 of the Implementing Regulations.

☐ Claim(s) _____ do(es) not comply with provision of Rule 22 of the Implementing Regulations.

☐ Claim(s) _____ do(es) not comply with provision of Rule 23 of the Implementing Regulations.

☐ Claim(s) _____ do(es) not comply with the provision of Article 9 of the Patent Law.

☐ Claim(s) _____ do(es) not comply with the provision of Rule 12 paragraph 1 of the Implementing Regulations of the Patent Law.

The detailed analysis for the above concluding comments is/are presented on the text of this Office Action.

7. Based on the above concluding comments, the examiner is of the opinions that:

☐ The applicant should amend the application document(s) in accordance with the requirement as specified in the Office Action.

☐ The applicant should, in his observation, expound the patentability of the application, amend the defects pointed out in the Office Action; or the application can hardly be approved.

☒ The examiner deems that the application lacks substantive features to make it patentable. Therefore, the application will be rejected if no convincing reasons are provided to prove its patentability.

8. The applicant should pay attention to the following matters:

(1) According to Article 37 of the Patent Law, the applicant is required to submit his observations within four months upon receipt of this Office Action. If the time limit for making response is not met without any justified reason, the application shall be deemed to have been withdrawn.

(2) The amendment(s) made by the applicant must meet the provision of Article 33 of the Patent Law. The amended text should be in duplicate, its format should conform to the related confinement in the Guidance for Examination.

(3). **The observation and the amended document(s) must be mailed or delivered to the Receiving Section of the Chinese Patent Office. No legal effect shall apply for any document(s) that not mailed to or reached the Receiving Section.**

(4) Without being invited, the applicant and/or the agent should not go to the Chinese Patent Office to interview an examiner.

9. The text of this Office Action contains 4 page(s), and has the following attachment(s):

☒ 2 copies of the cited references, total 38 pages.

Examination Section No. _____ Examiner _____ Seal of Examination Dept. .For business only (if the Office Action wasn't stamped by the specified seal, it has no legal effect)

TEXT OF THE FIRST OFFICE ACTION

Application No.: 038131609

The present application relates to a folder type mobile phone having a function of being capable of performing a closed-state communication. After examination, the opinions are now provided as follows.

1. Claim 1 does not possess inventiveness as prescribed in Article 22, paragraph 3 of the Chinese Patent Law. Reference 1 (CN1243375A) has disclosed a folder type mobile telephone terminal with the following technical features in detail (refer to lines 23-26, page 4; lines 11-22, page 6; lines 9-20, page 7 of the specification; and Figs. 1-10 of Reference 1): the folder type mobile telephone terminal (i.e., a folder type mobile phone) comprises a microphone device 222 (i.e., a transmission microphone) which is installed in the body 200 (i.e., a first case), a first speaker device 304 (i.e., a receiver) which is mounted on an inner side of a folder 202 (i.e., a second case), a second speaker device 306 (i.e., a speaker) which is mounted on an outer side (i.e., an exposed portion) of the folder 202; a reed switch 226 and a magnet 228 constitute a folder-open sensor for sensing the folder 202; when the folder 202 is open with respect to the body 200, the folder-open sensor senses the open state of the folder 202, and a controller switches a voice output path to a first speaker device 304 when the folder is open, and to a second speaker device 306 when the folder is closed. In other words, the communication is performed by using the first speaker device 304 and the microphone device 222 when the folder is open (i.e., a first function), while the communication is performed by using the second speaker device 306 and the microphone device 222 when the folder is closed (i.e., a second function); and the folder-open sensor and the controller constitute the switching unit of said claim. Said claim is distinguished from Reference 1 in that: said claim includes a volume variable unit which can adjust a volume of the speaker to a level substantially same as a volume of the receiver when the communication is performed by using the speaker and the transmission microphone. Reference 2 (CN1437235A) has disclosed a portable telephone with the following technical features in detail (refer to lines 14-18, page 4 of the specification of Reference 2): a speaker 4 is operable in different modes, i.e., a received speech mode and a sound mode; when the received speech mode is selected, the speaker is caused to output a received speech with a speech volume set beforehand; when the sound mode is selected, the speaker 4 is caused to output sound with a preselected call incoming tone volume. Thus it can be seen that the above distinctive technical feature has been disclosed in Reference 2, and the technical problem to be resolved by the distinctive technical feature in essence is to reduce the volume of a large volume speaker when outputting speech. The function of said feature in Reference 2 is same as that in the present invention, both of them are to use the speaker for such two purposes as outputting speech and outputting sound and to make the volume thereof adjustable between two modes. Those skilled in the art can

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get an inspiration from Reference 2 and derive the technical solution sought for protection in said claim by combining Reference 2 on the basis of Reference 1, and such combination is obvious for those skilled in the art. Therefore, the technical solution sought for protection in said claim does not possess prominent substantive feature or notable progress as compared with References 1 and 2, which does not comply with the provision on inventiveness.

2. Claim 2 does not possess inventiveness as prescribed in Article 22, paragraph 3 of the Chinese Patent Law. Reference 1 has disclosed the following technical features (refer to lines 23-26, page 4; lines 11-22, page 6; lines 9-20, page 7 of the specification; and Figs. 1-10): a folder type mobile telephone terminal (i.e., a folder type mobile phone) comprises a microphone device 222 (i.e., a transmission microphone) which is installed in the body 200 (i.e., a first case), a first speaker device 304 (i.e., a receiver) which is mounted on an inner side (i.e., an exposed portion) of a folder 202 (i.e., a second case), a second speaker device 306 (i.e., a speaker) which is mounted on an outer side of the folder 202, a keypad 218 which is mounted on an inner side of the body 200, the keypad 218 being covered when the folder is closed and being exposed when the folder is open, and a button 230 (i.e., a second button) which is mounted on a side of the body 200 and is exposed even if the folder is closed; a reed switch 226 and a magnet 228 constitute a folder-open sensor for sensing the folder 202; when the folder 202 is open with respect to the body 200, the folder-open sensor senses the open state of the folder 202, and a controller switches a voice output path to a first speaker device 304 when the folder is open, and to a second speaker device 306 when the folder is closed; the user can answer the incoming call by pressing the button 230 mounted on a side of the body 200. In other words, the communication by using the first speaker device 304 and the microphone device 222 is performed by operating the keypad 218 when the folder is open (i.e., a first function), while the communication by using the second speaker device 306 and the microphone device 222 is performed by operating the button 230 when the folder is closed (i.e., a second function); and the folder-open sensor and the controller constitute the switching unit of said claim. Said claim is distinguished from Reference 1 in that: said claim includes a volume variable unit which can adjust a volume of the speaker to a level substantially same as a volume of the receiver when the communication is performed by using the speaker and the transmission microphone. Reference 2 has also disclosed the following technical features: a speaker 4 is operable in different modes, i.e., a received speech mode and a sound mode; when the received speech mode is selected, the speaker is caused to output a received speech with a speech volume set beforehand; when the sound mode is selected, the speaker 4 is caused to output sound with a preselected call incoming tone volume. Thus it can be seen that the above distinctive technical feature has been disclosed in Reference 2, and the technical problem to be resolved by the distinctive technical feature in essence is to reduce the volume of a large volume speaker when outputting speech. The function of said feature in Reference 2 is same as that in the present invention, both of them are to use the speaker for such two purposes as outputting speech and outputting

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sound and to make the volume thereof adjustable between two modes. Those skilled in the art can get an inspiration from Reference 2 and derive the technical solution sought for protection in said claim by combining Reference 2 on the basis of Reference 1, and such combination is obvious for those skilled in the art. Therefore, the technical solution sought for protection in said claim does not possess prominent substantive feature or notable progress as compared with References 1 and 2, which does not comply with the provision on inventiveness.

3. Claim 3 does not possess inventiveness as prescribed in Article 22, paragraph 3 of the Chinese Patent Law. Reference 1 (refer to lines 6-12, page 6 of the specification; and Figs. 5-10) has disclosed the following technical features: a microphone device 222 (i.e., the transmission microphone) is installed in a bottom corner of the body 200 (i.e., the first case) which is away from a hinge device 208 (i.e., a coupling portion) and exposed when the folder 202 (i.e., the second case) is closed; and a second speaker 224 (i.e., the receiver) is mounted on an inner side of the folder 202 which is away from the hinge device 208. Thus it can be seen that the additional technical features of said claim have been disclosed in Reference 1. As the claims referred to do not possess inventiveness, the dependent claim does not possess inventiveness as prescribed in Article 22, paragraph 3 of the Chinese Patent Law either.

4. Claims 4-5 do not possess inventiveness as prescribed in Article 22, paragraph 3 of the Chinese Patent Law. Reference 1 has disclosed that: when the folder 202 is open with respect to the body, the folder-open sensor senses the open state of the folder 202, and a controller switches a voice output path to a first speaker device 304 when the folder is open, and to a second speaker device 306 when the folder is closed. In other words, the communication is performed by using the first speaker device 304 and the microphone device 222 when the folder is open (i.e., a first function), while the communication is performed by using the second speaker device 306 and the microphone device 222 when the folder is closed (i.e., a second function); and the folder-open sensor and the controller constitute the switching unit of said claim. Reference 1 does not particularly describe whether the switching between the first speaker device and the second speaker device is performed when the user is in a communication state, but in the case of the user switching the speech output devices in a communication state, those skilled in the art can select a usage mode according to the practical requirements, and the technical means employed in the implementation procedure is also the common technical means in the relevant art. Therefore, as the claims referred to do not possess inventiveness, the above dependent claims do not possess inventiveness as prescribed in Article 22, paragraph 3 of the Chinese Patent Law.

5. Claims 6-7 do not possess inventiveness as prescribed in Article 22, paragraph 3 of the Chinese Patent Law. As to performing the operation of terminating the communication by using a button mounted on the case of a folder type mobile phone, and whether the function of the button can be fulfilled only after the button is

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continuously operated for a predetermined time period, those skilled in the art can select a usage mode according to the practical requirements, and the technical means employed in the implementation procedure is also the common technical means in the relevant art. Therefore, as the claims referred to do not possess inventiveness, the above dependent claims do not possess inventiveness as prescribed in Article 22, paragraph 3 of the Chinese Patent Law.

6. Claim 8 does not possess inventiveness as prescribed in Article 22, paragraph 3 of the Chinese Patent Law. In order to prevent undesignedly misoperating the button mounted on the case, those skilled in the art can easily conceive of disposing the button within a recess portion of the case, and the technical means employed in the implementation procedure is also the common technical means in the relevant art. Therefore, as the claims referred to do not possess inventiveness, the dependent claim does not possess inventiveness as prescribed in Article 22, paragraph 3 of the Chinese Patent Law either.

7. Claim 9 does not possess inventiveness as prescribed in Article 22, paragraph 3 of the Chinese Patent Law. Reference 1 has disclosed the following technical features: a folder type mobile telephone terminal (i.e., a folder type mobile phone) comprises a microphone device 222 which is installed in the body 200 (i.e., a first case), a first speaker device 304 which is mounted on an inner side of a folder 202 (i.e., a second case), a second speaker device 306 (i.e., a speaker) which is mounted on an outer side of the folder 202; a reed switch 226 and a magnet 228 constitute a folder-open sensor for sensing the folder 202; when the folder 202 is open with respect to the body 200, the folder-open sensor senses the open state of the folder 202, and a controller switches a voice output path to a first speaker device 304 when the folder is open, and to a second speaker device 306 when the folder is closed. In other words, the communication is performed by using the first speaker device 304 and the microphone device 222 when the folder is open (i.e., a first function), while the communication is performed by using the second speaker device 306 and the microphone device 222 when the folder is closed (i.e., a second function); and the folder-open sensor and the controller constitute the switching unit of said claim. Said claim is distinguished from Reference 1 in that: said claim includes an adjusting unit which can adjust the volume of the speaker to a lower level than the volume at a time of an incoming call when the communication is performed by using the speaker. Reference 2 has also disclosed the following technical features: a speaker 4 is operable in different modes, i.e., a received speech mode and a sound mode; when the received speech mode is selected, the speaker is caused to output a received speech with a speech volume set beforehand; when the sound mode is selected, the speaker 4 is caused to output sound with a preselected call incoming tone volume. Thus it can be seen that the above distinctive technical feature has been disclosed in Reference 2, and the technical problem to be resolved by the distinctive technical feature in essence is to reduce the volume of a large volume speaker when outputting speech. The function of said feature in Reference 2 is same as that in the present invention, both of

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them are to use the speaker for such two purposes as outputting speech and outputting sound and to make the volume thereof adjustable between two modes. Those skilled in the art can get an inspiration from Reference 2 and derive the technical solution sought for protection in said claim by combining Reference 2 on the basis of Reference 1, and such combination is obvious for those skilled in the art. Therefore, the technical solution sought for protection in said claim does not possess prominent substantive feature or notable progress as compared with References 1 and 2, which does not comply with the provision on inventiveness.

Based on the above reasons, all the independent claims and the dependent claims of the present application do not possess inventiveness. Furthermore, no other substantive content that deserves a patent right is disclosed in the specification. Therefore, even if the applicant rearranges and/or further defines the claims in accordance with the disclosure of the specification, the present application does not have a prospect of being granted a patent right.

Examiner: Zheng Wenxiao

Examiner: Zheng Wenxiao

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中华人民共和国国家知识产权局

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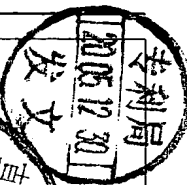
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北京市柳沈律师事务所

邱万奎, 黄小临

发文日期



申请号: 038131609



申请人: 松下电器产业株式会社

发明创造名称: 可折叠移动电话

第一次审查意见通知书

(进入国家阶段的 PCT 申请)

1. ☒ 应申请人提出的实审请求, 根据专利法第 35 条第 1 款的规定, 国家知识产权局对上述发明专利申请进行实质审查。

☐ 根据专利法第 35 条第 2 款的规定, 国家知识产权局专利局决定自行对上述发明专利申请进行审查。

2. ☒ 申请人要求以其在:

JP 专利局的申请日 2002 年 06 月 07 日为优先权日。

3. ☐ 申请人于 年 月 日提交的修改文件, 不符合专利法实施细则第 51 条的规定。

☐ 申请人提交的下列修改文件不符合专利法第 33 条的规定。

☐ 国际初步审查报告附件的中文译文。

☐ 依据专利合作条约第 19 条规定所提交的修改文件的中文译文。

☐ 依据专利合作条约第 28 条或 41 条规定所提交的修改文件。

☐

4. ☒ 审查是针对原始提交的国际申请的中文译文进行的。

☐ 审查是针对下述申请文件进行的:

☐ 说明书 第 页, 按照原始提交的国际申请文件的中文译文;

第 页, 按照国际初步审查报告附件的中文译文;

第 页, 按照依据专利合作条约第 28 条或 41 条规定所提交的修改文件;

第 页, 按照依据专利法实施细则第 51 条规定所提交的修改文件。

☐

☐ 权利要求 第 项, 按照原始提交的国际申请文件的中文译文;

第 项, 按照依据专利合作条约第 19 条规定所提交的修改文件的中文译文。

第 项, 按照国际初步审查报告附件的中文译文;

第 项, 按照依据专利合作条约第 28 条或 41 条所提交的修改文件;

第 项, 按照依据专利法实施细则第 51 条规定所提交的修改文件。

☐

☐ 附图 第 页, 按照原始提交的国际申请文件的中文译文;

第 页, 按照国际初步审查报告附件的中文译文;

第 页, 按照依据专利合作条约第 28 条或 41 条所提交的修改文件;

第 页, 按照依据专利法实施细则第 51 条规定所提交的修改文件。

☐

☒ 本通知书引用下述对比文献(其编号在今后的审查过程中继续沿用):

21302
2002.8



回函请寄: 100088 北京市海淀区蓟门桥西土城路6号 国家知识产权局专利局受理处收
(注: 凡寄给审查员个人的信函不具有法律效力)

编号	文件号或名称	公开日期 (或抵触申请的申请日)
1	CN1243375A	2000-2-2
2	CN1347235A	2002-5-1

5. 审查的结论性意见:

☐ 关于说明书:

- ☐ 申请的内容属于专利法第 5 条规定的不授予专利权的范围。
- ☐ 说明书不符合专利法第 26 条第 3 款的规定。
- ☐ 说明书不符合专利法第 33 条的规定。
- ☐ 说明书的撰写不符合专利法实施细则第 18 条的规定。

☒ 关于权利要求书:

- ☐ 权利要求 不具备专利法第 22 条第 2 款规定的新颖性。
- ☒ 权利要求 1-9 不具备专利法第 22 条第 3 款规定的创造性。
- ☐ 权利要求 不具备专利法第 22 条第 4 款规定的实用性。
- ☐ 权利要求 属于专利法第 25 条规定的不授予专利权的范围。
- ☐ 权利要求 不符合专利法第 26 条第 4 款的规定。
- ☐ 权利要求 不符合专利法第 31 条第 1 款的规定。
- ☐ 权利要求 不符合专利法第 33 条的规定。
- ☐ 权利要求 不符合专利法实施细则第 13 条第 1 款的规定。
- ☐ 权利要求 不符合专利法实施细则第 2 条第 1 款关于发明的定义。
- ☐ 权利要求 不符合专利法实施细则第 20 条的规定。
- ☐ 权利要求 不符合专利法实施细则第 21 条的规定。
- ☐ 权利要求 不符合专利法实施细则第 22 条的规定。
- ☐ 权利要求 不符合专利法实施细则第 23 条的规定。

上述结论性意见的具体分析见本通知书的正文部分。

6. 基于上述结论性意见, 审查员认为:

- ☐ 申请人应按照通知书正文部分提出的要求, 对申请文件进行修改。
- ☐ 申请人应在意见陈述书中论述其专利申请可以被授予专利权的理由, 并对通知书正文部分中指出的不符合规定之处进行修改, 否则将不能授予专利权。
- ☒ 专利申请中没有可以被授予专利权的实质性内容, 如果申请人没有陈述理由或者陈述理由不充分, 其申请将被驳回。

7. 申请人应注意下述事项:

- (1) 根据专利法第 37 条的规定, 申请人应在收到本通知书之日起的肆个月内陈述意见, 如果申请人无正当理由逾期不答复, 其申请将被视为撤回。
- (2) 申请人对其申请的修改应符合专利法第 33 条的规定, 修改文本应一式两份, 其格式应符合审查指南的有关规定。
- (3) 申请人的意见陈述书和 / 或修改文本应邮寄或递交国家知识产权局专利局受理处, 凡未邮寄或递交给受理处的文件不具备法律效力。
- (4) 未经预约, 申请人和 / 或代理人不得前来国家知识产权局专利局与审查员举行会晤。

8. 本通知书正文部分共有 4 页, 并附有下列附件:

- ☒ 引用的对比文件的复印件共 2 份 38 页。

审查员: 郑文
2005 年 12 月



审查部门 通信审查部



第一次审查意见通知书正文

申请号：038131609

本申请涉及一种具有能够进行闭合状态通信功能的折叠式移动电话。经审查，现提出如下的审查意见。

1. 权利要求1不具备专利法第二十二条第三款规定的创造性。对比文件1（CN1243375A）公开了一种折叠型移动电话终端，并具体公开了以下技术特征（参见对比文件1的说明书第4页第23-26行，第6页第11-22行，第7页第9-20行，图1-10）：折叠型移动电话终端（即折叠式移动电话），包括话筒装置222（即传送麦克风）安装在主体200（即第一外壳）上，第一扬声器装置304（即接收器）安装在折叠器202（即第二外壳）的内侧，第二扬声器装置306（即扬声器）安装在折叠器202的外侧（即露出的部分），舌簧开关226和磁铁228构成用于检测折叠器202的翻盖检测器，当折叠器202相对主体200被打开时，翻盖检测器检测到折叠器202的打开状态，并且控制器在折叠器打开时将话音输出路径转换到第一扬声器装置304，在折叠器闭合时将话音输出路径转换到第二扬声器装置306。也就是说，折叠器打开时，用第一扬声器装置304和话筒装置222进行通信（即第一功能），折叠器闭合时，用第二扬声器装置306和话筒装置222进行通信（即第二功能），翻盖检测器和控制器构成了该权利要求中所述的切换单元。该权利要求与对比文件1的区别在于：该权利要求中具有音量可调单元，能在使用扬声器和传送麦克风通信时，将扬声器的音量调整到与接收器的音量基本相同的级别上。对比文件2（CN1437235A）中公开一种便携式电话，并具体公开了以下技术特征（参见对比文件2的说明书第4页第14-18行）：扬声器4以不同的模式即接收语音模式和声音模式进行操作，当选择语音模式时，使扬声器用之前设置的语音音量输出接收语音，当选择声音模式时，使扬声器4用预选的来话呼叫音调音量输出声音。由此可见上述区别特征已经被对比文件2公开，该区别技术特征实际要解决的技术问题是降低大音量扬声器在输出语音时的音量，该特征在对比文件2中所起的作用与其在本发明中所起的作用相同，都是将扬声器用于输出语音和输出声音两种用途，并且使其音量在两种模式之间可调。本领域的技术人员从对比文件2中可以得到启示，在对比文件1的基础上结合对比文件2得出该权利要求所要求保护的技术方案，这种结合对本领域的技术人员来说是显而易见的。因此该权利要求所要求保护的技术方案相对于对比文件1和对比文件2不具有突出的实质性特点和显著的进步，因而不具备创造性。

2. 权利要求2不具备专利法第二十二条第三款规定的创造性。对比文件1中（参见说明书第4页第23-26行，第6页第11-22行，第7页第9-20行，图1-10）公开了以下的技术特征：折叠型移动电话终端（即折叠式移动电话），包括话筒装置222（即传送麦克风）安装在主体200（即第一外壳）上，第一扬声器装置304（即接收器）安装在折叠器202（即第二外壳）的内侧（即露出的部分）；第二扬声器装置306（即扬声器）安装在折叠器202的外侧；按钮218安装在主体200的内侧，当折叠器闭合时被盖住，折叠器打开时露出；按钮230（即第二按钮）安装在主体200一侧上，即使折叠器闭合也能露出；舌簧开关226和磁铁228构成用于检测折叠器202的翻盖检测器，当折叠器202相对主体200被打开时，翻盖检测器检测到折叠器202的打开状态，并且控制器在折叠器打开时将话音输出路径转换到第一扬声器装置304，在折叠器闭合时将话音输出路径转换到第二扬声器装置306，用户能通过按下安装在主体200一侧上的按钮230应答输入呼叫。也就是说，折叠器打开时，能通过操作按钮218用第一扬声器装置304和话筒装置222进行通信（即第一功能），折叠器闭合时，能通过操作按钮230用第二扬声器装置306和话筒装置222进行通信（即第二功能），翻盖检测器和控制器构成了该权利要求中所述的切换单元。该权利要求与对比文件1的区别在于：该权利要求中具有音量可调单元，能在使用扬声器和传送麦克风通信时，将扬声器的音量调整到与接收器的音量基本相同的级别上。对比文件2中也公开了以下技术特征：扬声器4以不同的模式即接收语音模式和声音模式进行操作，当选择语音模式时，使扬声器用之前设置的语音音量输出接收语音，当选择声音模式时，使扬声器4用预选的来话呼叫音调音量输出声音。由此可见上述区别特征已经被对比文件2公开，该区别技术特征实际要解决的技术问题是降低大音量扬声器在输出语音时的音量，该特征在对比文件2中所起的作用与其在本发明中所起的作用相同，都是将扬声器用于输出语音和输出声音两种用途，并且使其音量在两种模式之间可调。本领域的技术人员从对比文件2中可以得到启示，在对比文件1的基础上结合对比文件2得出该权利要求所要求保护的技术方案，这种结合对本领域的技术人员来说是显而易见的。因此该权利要求所要求保护的技术方案相对于对比文件1和对比文件2不具有突出的实质性特点和显著的进步，因而不具备创造性。

3. 权利要求3不具备专利法第二十二条第三款规定的创造性。对比文件1中（参见说明书第6页第6-12行，图5-10）公开了以下技术特征：话筒装置222（即传送麦克风）远离铰链装置208（即耦接部分）安装在主体200（即第一外壳）的底部角落中，并在折叠器202（即第二外壳）闭合时露出，第二扬声器224（即接收器）远离

铰链装置208安装在折叠器202的内侧。由此可见，该权利要求的附加技术特征也已经被对比文件1公开了。当其引用的权利要求不具备创造性时，该从属权利要求也不具备专利法第二十二条第三款规定的创造性。

4. 权利要求4-5不具备专利法第二十二条第三款规定的创造性。对比文件1中已经公开了当折叠器202相对主体被打开时，翻盖检测器检测到折叠器202的打开状态，并且控制器在折叠器打开时将话音输出路径转换到第一扬声器装置304，在折叠器闭合时将话音输出路径转换到第二扬声器装置306。也就是说，折叠器打开时，用第一扬声器装置304和话筒装置222进行通信（即第一功能），折叠器闭合时，用第二扬声器装置306和话筒装置222进行通信（即第二功能），翻盖检测器和控制器构成了该权利要求中所述的切换单元。虽然对比文件1中没有具体说明第一扬声器装置和第二扬声器装置之间的切换是否在用户处于通信状态时进行，但是在用户处于通信状态时进行语音输出装置的切换，对本领域技术人员来说是可以根据实际需要而选择使用的方式，其实现过程中所采用的技术手段也是本领域的常用技术手段。因此，当其引用的权利要求不具备创造性时，上述从属权利要求也不具备专利法第二十二条第三款规定的创造性。

5. 权利要求6-7不具备专利法第二十二条第三款规定的创造性。利用折叠式移动电话处于外壳上的按钮进行结束通话的操作，以及按钮是否在持续操作预定时间后才实现其功能，对本领域技术人员来说是可以根据实际需要而选择使用的方式，其实现过程中所采用的技术手段也是本领域的常用技术手段。因此，当其引用的权利要求不具备创造性时，上述从属权利要求也不具备专利法第二十二条第三款规定的创造性。

6. 权利要求8不具备专利法第二十二条第三款规定的创造性。为了防止无意中误操作处于外壳上的按钮，本领域技术人员很容易想到将该按钮置于外壳的凹陷部分中，其实现过程中所使用的技术手段也是本领域的常用技术手段。因此，当其引用的权利要求不具备创造性时，该从属权利要求也不具备专利法第二十二条第三款规定的创造性。

7. 权利要求9不具备专利法第二十二条第三款规定的创造性。对比文件1中已经公开了以下的技术特征：折叠型移动电话终端（即折叠式移动电话），包括话筒装置222安装在主体200（即第一外壳）上，第一扬声器装置304安装在折叠器202（即第二外壳）的内侧，第二扬声器装置306（即扬声器）安装在折叠器202的外侧，舌簧开关226和磁铁228构成用于检测折叠器202的翻盖检测器，当折叠器202相对主体200

被打开时，翻盖检测器检测到折叠器202的打开状态，并且控制器在折叠器打开时将话音输出路径转换到第一扬声器装置304，在折叠器闭合时将话音输出路径转换到第二扬声器装置306。也就是说，折叠器打开时，用第一扬声器装置304和话筒装置222进行通信（即第一功能），折叠器闭合时，用第二扬声器装置306和话筒装置222进行通信（即第二功能），翻盖检测器和控制器构成了该权利要求中所述的切换单元。该权利要求与对比文件1的区别在于：该权利要求中具有调整单元，能在使用扬声器通话时，将扬声器的音量调整到比呼入呼叫时的发生音量更低的级别上。对比文件2中已经公开了以下技术特征：扬声器4以不同的模式即接收语音模式和声音模式进行操作，当选择语音模式时，使扬声器用之前设置的语音音量输出接收语音，当选择声音模式时，使扬声器4用预选的来话呼叫音调音量输出声音。由此可见上述区别特征已经被对比文件2公开，该区别技术特征实际要解决的技术问题是降低大音量扬声器在输出语音时的音量，该特征在对比文件2中所起的作用与其在本发明中所起的作用相同，都是将扬声器用于输出语音和输出声音两种用途，并且使其音量在两种模式之间可调。本领域的技术人员从对比文件2中可以得到启示，在对比文件1的基础上结合对比文件2得出该权利要求所要求保护的技术方案，这种结合对本领域的技术人员来说是显而易见的。因此该权利要求所要求保护的技术方案相对于对比文件1和对比文件2不具有突出的实质性特点和显著的进步，因而不具备创造性。

基于上述理由，本申请的独立权利要求以及从属权利要求都不具备创造性，同时说明书中也没有记载其他任何可以授予专利权的实质性内容，因而即使申请人对权利要求进行重新组合和 / 或根据说明书记载的内容作进一步的限定，本申请也不具备被授予专利权的前景。

审查员：郑文潇

代码：3224